

1 HONORABLE RONALD B. LEIGHTON
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DANIEL G SZMANIA,

Plaintiff,

v.

E-LOAN, INC.,

Defendant.

CASE NO. C16-5644RBL

ORDER

THIS MATTER is before the Court on its own motion. This case was dismissed with prejudice in November 2016. [Dkt. #64]. Szmania appealed the same day this Court denied his Motion for Reconsideration [Dkt. #s 67, 68].

Szmania has recently filed an “Answer and Notice of Removal” [Dkt. #72], apparently purporting to remove to either this Court or the Ninth Circuit a state law unlawful detainer action pending against him. He also filed a second “Answer to Complaint” [Dkt. #74], apparently related to the state court unlawful detainer case.

This Court no longer has jurisdiction over Szmania’s claim, due to his appeal of its order dismissing that claim with prejudice. Even if it did, Szmania’s effort to remove the state law claim here is improper for a number of reasons: the removal notice is facially untimely, and

1 Szmania has not identified any basis for this Court's (much less the Ninth Circuit's) jurisdiction
2 over the unlawful detainer claim. Indeed, he cannot. The sole issue in an unlawful detainer action
3 is possession of property. *See Green Tree Servicing, LLC v. Shoemaker*, 2005 U.S. Dist. LEXIS
4 36171, at *8–9 (W.D. Wash. July 15, 2005) (referencing RCW 61.24.060). “[T]here is no
5 amount in controversy. . . .” *Id.* Because Szmania cannot meet 28 U.S.C. § 1332’s amount-in-
6 controversy requirement, this Court lacks jurisdiction over the purportedly removed action.

7 Under Fed. R. Civ. P. 62.1 and FRAP 12.1, if the Ninth Circuit remanded the case for the
8 limited purpose of remanding the state law case to state court, this Court would do so. Otherwise,
9 this Court will not act on either of the recent filings, or on any other filings Szmania makes in
10 this court while the appeal is pending.

11 IT IS SO ORDERED.

12 Dated this 25th day of May, 2017.

13 
14 Ronald B. Leighton

15 Ronald B. Leighton
16 United States District Judge